

Issue Paper Number 04-004



BOARD OF EQUALIZATION
KEY AGENCY ISSUE

- Board Meeting
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other

AMENDMENTS TO RULES OF PRACTICE 5060, 5061, 5062, 5063, AND 5064

I. Issue

Should the Board authorize publication of amendments to Board of Equalization Rules of Practice 5060, 5061, 5062, 5063, and 5064 relating to property tax welfare exemption claim review procedures?

II. Staff Recommendation

Staff recommends that the attached amendments to Rules of Practice 5060, 5061, 5062, 5063, and 5064 be adopted and authorized for publication.

III. Other Alternative(s) Considered

None

IV. Background

The Rules of Practice are the hearing procedures applicable to the various tax and fee programs administered by the Board. Title 18 of the California Code of Regulations, Division 2, Chapter 10, Article 6, contains the following Rules of Practice for Board hearings on property tax welfare exemption appeals:

- Rule 5060 *Definitions; Board Hearing Procedures; Application*
- Rule 5061 *Supplementary Material; Application for Additional Time to Submit Supplementary Material*
- Rule 5062 *Petition Time Limit*
- Rule 5063 *Hearing Petition: Contents*
- Rule 5064 *Oral Hearings; Waiver*

Senate Bill 1062 (Stats. 2003, Ch. 471), effective January 1, 2004, amended various Revenue and Taxation Code provisions relating to the welfare and veterans' organization exemptions from local property taxation. In general, the welfare and veterans' organization exemption is available for property owned and used exclusively for qualifying religious, hospital, scientific, or charitable purposes by organizations formed and operated exclusively for those purposes. Both the organizational and property use requirements must be met for the exemption to be granted.

Prior to SB 1062, the welfare and veterans' organization exemption was administered by the Board and the county assessor, with each agency reviewing the same documents filed by claimants in order to determine if an exemption from property taxation should be granted. The county assessor would review the claim form and supporting documents and make an initial determination of eligibility regarding the organization and the specific property. The assessor would then forward the documents to Board staff who conducted an independent review of the claim and issued their own findings of eligibility for the organization and the specific property.

The statutory amendments enacted by SB 1062 separate the exemption claim review process to eliminate duplicative review functions. Under the amendments, the Board will determine whether an organization has met the requirements for the welfare or veterans' organization exemption and, if so, issue an organizational clearance certificate. For claimants with an approved organizational clearance certificate from the Board, the county assessor will then determine whether the use of a specific property by that organization qualifies for the exemption.

The proposed amendments to Rules of Practice 5060, 5061, 5062, 5063, and 5064 are necessary to reflect these statutory amendments.

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends that the attached amendments to Rules of Practice 5060, 5061, 5062, 5063, and 5064 be authorized for publication. The drafts identify staff's recommended changes arrayed in a strikeout-and-underscore format. The proposed amendments were distributed by Board staff on January 13, 2004, and no comments or suggestions on the draft rules were received from interested parties.

B. Pros of the Staff Recommendation

Amendments to Rules of Practice 5060, 5061, 5062, 5063, and 5064 will ensure that the rules are consistent with current statutory requirements and current administrative procedures for hearings before the Board on the denial of a welfare exemption organizational clearance certificate.

C. Cons of the Staff Recommendation

None

D. Statutory or Regulatory Change

Action by the Board on the attached Rules of Practice will amend Title 18 of the California Code of Regulations, Division 2, Chapter 10, Sections 5060, 5061, 5062, 5063, and 5064.

E. Administrative Impact

None

F. Fiscal Impact

1. Cost Impact

Rule amendments are routinely prepared and any associated costs are accommodated within the Board's existing budget. There are no other costs.

2. Revenue Impact

None

G. Taxpayer/Customer Impact

None

H. Critical Time Frames

None

VI. Alternative 1

A. Description of the Alternative

Not applicable

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Legal Department, Property Taxes Section

Current as of: May 28, 2004

RULES OF PRACTICE
of the
STATE BOARD OF EQUALIZATION

California Code of Regulations
Title 18, Public Revenues
Division 2. State Board of Equalization
Chapter 10. Petition and Hearing Procedures

ARTICLE 6. PROPERTY TAX WELFARE EXEMPTION CLAIM REVIEW PROCEDURE.

5060. DEFINITIONS; BOARD HEARING PROCEDURES; APPLICATION.

(a) The definitions in Article 7, Regulation 5070 shall apply to this Article, and Board hearings on petitions filed pursuant to this Article shall be conducted pursuant to the hearing procedures set forth in Article 7, commencing with Regulation 5070.

(b) The provisions of this ~~section~~ Article shall apply to property tax welfare exemption clearance certificate claims received by the Board pursuant to Section ~~254.5~~ 254.6 of the Revenue and Taxation Code.

Note: Authority: Section 15606(a), Government Code.
Reference: Sections ~~254.5~~ 254.6 and 270, Revenue and Taxation Code.

History: 1. New article 6 and section adopted 8-31-95; effective 1-1-96.
2. Change without regulatory effect amending article heading and section filed 3-19-98.

5061. SUPPLEMENTARY MATERIAL; APPLICATION FOR ADDITIONAL TIME TO SUBMIT SUPPLEMENTARY MATERIAL.

(a) Where, after analysis of a claim, Board Staff determines that the requirements of Section 214 and following through Section 214.14, inclusive, of the Revenue and Taxation Code have not been met, ~~for any~~ one of the following reasons will be, indicated on the Board's ~~annual welfare exemption clearance certificate~~ finding sheet to the claimant:

~~(1) Fund Raising Purposes (Coded – F.R.P.);~~

~~(2)~~(1) Religious Aspect Not Apparent (Coded - R.N.A.);

(2) Hospital Aspect Not Apparent (Coded – H.N.A.)

(3) Scientific Aspect Not Apparent (Coded – S.N.A.)

~~(3) Not Exclusively Used (Coded – N.E.U.);~~

(4) Charitable Aspect Not Apparent (Coded - C.N.A.);

~~(5) Vacant, Unused Property (Coded - V.U.P.);~~

(5) Management Authority of Nonprofit Managing General Partner Not Apparent (Coded – M.G.P.)

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a ~~A~~ preliminary notice shall accompany the finding sheet ~~information~~ sent to the claimant ~~informing~~ that the claimant that it has 30 days from the date of the notice to submit supplementary material supporting the claim.

(b) Upon written application filed within the noticed time limit, the claimant shall be granted an additional 30 days to submit the material.

Note: Authority: Section 15606(a), Government Code.
Reference: Sections 214, 214.01, 214.02, 214.05, 214.1, 214.2, 214.3, 214.4, 214.5, 214.6, 214.7, 214.8, 214.9, 214.10, 214.11, 214.13, 214.14, ~~254.5~~ 254.6 and 270, Revenue and Taxation Code.

History: 1. New section adopted 8-31-95; effective 1-1-96.
2. Change without regulatory effect amending subsection (a) and Note filed 3-19-98.

5062. PETITION TIME LIMIT.

Upon receipt of supplementary material, the ~~Board staff exemption officer~~ shall conduct a complete review of the claim. A final notice informing the claimant that the supplementary material provides or does not provide a basis for changing the original finding shall be issued. A no-change notice shall advise the claimant that it has ~~30~~ 60 days from the date of the notice to petition the Board for hearing on the claim.

Note: Authority: Section 15606(a), Government Code.
Reference: Sections ~~254.5~~ 254.6 and 270, Revenue and Taxation Code.

History: 1. New section adopted 8-31-95; effective 1-1-96.
2. Change without regulatory effect amending section filed 3-19-98.

5063. HEARING PETITION: CONTENTS.

(a) The petition for hearing shall be in writing and addressed to the Chief, of Board Proceedings ~~Division~~. It shall state all of the grounds upon which qualification is claimed, and shall include all documents the petitioner wishes the Board to consider in deciding the petition. The parties to the hearing or proceeding shall be the Board Staff and the petitioner. The parties may agree in writing to submit the matter to the Board for a decision without a hearing. The petition shall indicate whether an oral hearing is desired, and if so, ~~claimant's~~ petitioner's estimate of the time necessary therefor. If requested in the petition, ~~and in the event that the Board shall grants a hearing and hears the matter, the Board shall issue written findings and decision.~~ The petition shall be signed by an authorized representative of the ~~claimant's~~ petitioner and shall be mailed to the Chief, of Board Proceedings ~~Division~~ of the State Board of Equalization at Sacramento, California, or shall be deposited personally at the ~~headquarters office of the Board's~~ headquarters office in at Sacramento. The Chief, of Board Proceedings ~~Division~~ may require the representative to demonstrate the representative's authority to represent the ~~claimant's~~ petitioner.

(b) No later than 30 days after the date that the petition for hearing is received pursuant to subdivision (a), the Board Attorney assigned to the case shall schedule a meeting or telephone conference, at a time suitable for the petitioner ~~and the assessor~~, for the purpose of establishing the agreed upon and contested facts and the legal issues under consideration.

(c) The Board Staff shall submit an analysis of the petition, related documents and a staff recommendation for Board Action no later than 30 days prior to the date set for hearing or other action on the petition. The analysis and recommendation shall be submitted to the Chief, of Board Proceedings ~~Division~~ and a copy shall be sent to the petitioner.

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(d) The petitioner may file a written response to the staff analysis and recommendation no later than 15 days before the date set for hearing or other action on the petition. The response shall be submitted to the Chief, of Board Proceedings Division.

(e) The provisions of subdivisions (b) of Regulation 5075 shall apply to materials submitted pursuant to (a), (c) or (d) of this regulation.

(f) The Board Staff shall also prepare a summary for Board hearing, which shall be a neutral statement of the relevant facts, the issues, and the positions of the Legal dDepartment and the claimant petitioner. The summary for Board hearing shall not be written by any staff person or persons who reviewed the claim and determined it should be denied, or who participated in the preparation of the staff analysis and recommendation.

(g) The ~~Chief~~, Board Proceedings Division shall distribute the petition and related documents, the staff analysis and recommendation, the petitioner's response, if any, and the summary for Board hearing to the Board, the petitioner and the staff at the time agenda materials are distributed for the Board meeting at which the petition is to be considered.

(h) ~~A reasonable extension of time for filing materials under (c) or (d) above may be granted by the Chief, Board Proceedings Division, upon a showing of reasonable cause. The Chief of Board Proceedings, upon a showing of reasonable cause, may grant a reasonable extension of time for filing materials under (c) or (d) above.~~ The request for an extension of time shall be submitted in writing before the scheduled due date of any materials.

(i) The petition and related documents, the staff analysis and recommendation and related documents, and the petitioner's response to the staff analysis and recommendation shall be the only documents accepted for filing and distribution prior to a scheduled hearing. ~~Any other documents received shall be returned by the Chief, Board Proceedings Division~~ The Board Proceedings Division shall return any other documents received to the person submitting the documents.

(j) The provisions of Regulation 5081.2 shall apply regarding the Board's issuance of written findings and decision.

Note: Authority: Section 15606(a), Government Code.
Reference: Sections ~~254.5~~ 254.6 and 270, Revenue and Taxation Code.

History: 1. New section adopted 8-31-95; effective 1-1-96.
2. Amendment adding subsection (a) designator, amending newly designated subsection (a), and adding new subsections (b)-(h) 11-19-97; effective 4-8-98.
3. New subsection (b), subsection relettering, and amendment of newly designated subsections (e) and (h) 3-8-01; effective 7-6-01.

5064. ORAL HEARINGS; WAIVER.

The Board shall schedule an oral hearing on a ~~Welfare Exemption~~ property tax welfare exemption clearance certificate petition. The petitioner shall receive 60 days notice of the hearing date and time, and the procedures shall be governed by Article 7. Oral hearing may be waived by the taxpayer and the matter submitted for decision on the basis of the written petition.

Note: Authority: Section 15606(a), Government Code.
Reference: Section ~~254.5~~ 254.6, Revenue and Taxation Code.

History: 1. New section adopted 11-19-97; effective 4-8-98.
2. Amendment of section 7-29-99; effective 10-31-99.